



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This is an application filed by the Landlord for a monetary order for money owed or compensation for damage or loss, to keep all or part of the security deposit and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am satisfied that both parties have been properly served.

During the hearing the Tenant made an oral request that if the Landlord was unsuccessful that she receive a monetary order for the return of the security and pet damage deposits.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain the security deposit?

Background and Evidence

This Tenancy began on August 1, 2011 on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent was \$900.00 payable on the 1st of each month. A security deposit of \$450.00 and a pet damage deposit of \$100.00 were paid on August 1, 2011.

The Landlord seeks a monetary claim for money owed or compensation for damage or loss of \$545.20. This consists of \$310.00 based upon an estimate for repair work for a bathroom shower curtain rod, bathroom floor, patching holes in walls and ceiling, repair

of the entry closet door and repair of closet doors in the master bedroom and 2nd bedroom. There is also a claim for \$235.20 based upon an estimate for carpet cleaning due to pet odours. The Landlord relies on photographs, a disputed condition inspection report for the move-out that was signed by both parties. The Tenant disputes the Landlord's claims stating that there was a pre-existing mold problem. The Tenant also states that as the Landlord has not provided any invoices or receipts for actual work completed and that she is skeptical that the Landlord did not just perform the work herself. The Tenant relies on an incomplete condition inspection report for the move-out that she completed on her own with no signatures.

Analysis

I find on a balance of probabilities that I prefer the evidence of the Landlord over that of the Tenant. However, when a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

I am satisfied that the Landlord has established that there has been damage caused by the Tenant. I found the Tenant's evidence contradictory and the Landlord's evidence reliable. The Tenant stated in her direct testimony that the laundry shelf damage was caused by her and that closet doors were broken when she moved in. The detailed information on the completed condition inspection report clearly show the condition of the unit at the beginning of the Tenancy. This undisputed report contradicts the evidence of the Tenant. The photographs in conjunction with the disputed condition inspection report provided by the Landlord show a clear picture as to the condition of the rental unit at the end of the tenancy which is not disputed by the Tenant. The Landlord has provided sufficient evidence that damage exists and that it was result of the Tenancy. The Tenant has been unable to provide sufficient evidence to satisfy me that mold was pre-existing. I find it more likely as the Landlord has provided evidence of a dehumidifier being provided as part of the Tenancy, that it is more likely that the Tenant failed to use the dehumidifier causing the mold to form. Unfortunately, the Landlord has failed to provide proof of an actual amount required for compensation for the repairs. I find that the Landlord has failed to establish a claim for the amount

applied for. However, I find that in the circumstances, that the Landlord is entitled to a nominal award of \$350.00. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain \$400.00 from the \$550.00 combined security and pet damage deposits. I grant a monetary order for the difference of \$150.00 to the Tenant. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

Conclusion

The Landlord may retain \$400.00 from the combined security and pet damage deposits.

The Tenant is granted a monetary order of \$150.00.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: June 21, 2013

Residential Tenancy Branch

